

MYSORE LAND REFORMS (AMENDMENT) BILL, 1965.

Sri S. R. KANTHI (Minister for Education) [on behalf of Sri M. V. KRISHNAPPA (Minister for Revenue)].—Sir, I beg to introduce the Mysore Land Reforms (Amendment) Bill, 1965.

Mr. SPEAKER.—The Mysore Land Reforms (Amendment) Bill, 1965 is introduced.

MYSORE CIVIL COURTS (AMENDMENT) BILL, 1965.

†Sri M. V. RAMA RAO (Minister for Law).—I introduce the Mysore Civil Courts (Amendment) Bill, 1965.

Mr. SPEAKER.—The Mysore Civil Courts (Amendment) Bill, 1965, is introduced. Next item.

Sri M. V. RAMA RAO.—I move:

“That the Mysore Civil Courts (Amendment) Bill, 1965, be taken into consideration.”

Mr. SPEAKER.—Motion moved:

“That the Mysore Civil Courts (Amendment) Bill, 1965, be taken into consideration.”

Sri M. V. RAMA RAO.—This is a very small Bill proposing to amend section 29 of the Mysore Civil Courts Act of 1934, which was passed during the course of last year. The proposed amendment is consequent on representations which have been made from the Bar Associations in the Bombay area suggesting the Civil Courts Act, 1964, be suitable amended in order to provide for the transfer of appeals from the decrees passed by Civil Judges, Junior Division, pending before District Courts to the Courts of Civil Judges. Such a suggestion had also been received from the High Court of Mysore. Accordingly, this Bill has been introduced. The gist of the amendment is contained in clause 2 of this amending Bill. “In section 29 of the Mysore Civil Courts Act, 1964 (Mysore Act 21 of 1964), after sub-section (1), the following sub-section shall be and shall always be deemed to have been inserted, namely.—

“Notwithstanding anything in sub-section (1) or in any other law, any reference in any Law or instrument to a Civil Court shall be deemed to be a reference to the corresponding Civil Court deemed to be established under this Act as specified in section 12 or to such Civil Court established under this Act, as the case may be.”

“In sub-section (2), after clause (e), the following clause shall be inserted, namely.—

“appeals and proceedings connected therewith pending before a District Court from the decrees and orders passed by a Civil

(SRI M. V. RAMA RAO)

Judge (Junior Division) other than a Joint Civil Judge (Junior Division) appointed or deputed to assist in the Court of a Civil Judge (Senior Division) under section 23 of the Bombay Civil Courts Act, 1869, shall, on the date of commencement of the Mysore Civil Courts (Amendment) Act, 1965, stand transferred to the Court of the Civil Judge and shall be disposed of by such Court in accordance with law as if such appeals or proceedings had been preferred to such Court."

I commend this Bill for the acceptance of the House.

Mr. SPEAKER.—The matter is crystal clear. It is a simple transfer.

Sri V. S. PATIL (Belgaum II).—Sir, the provisions contained in this Bill ought to have been incorporated in the original Act itself.

Mr. SPEAKER.—Therefore, it should be readily accepted.

Sri V. S. PATIL.—And now, after experience, Government have come forward with this amendment. It is really necessary. I, as a lawyer, will support it, because so many difficulties have been created by not incorporating these provisions in the original Act itself. But, one thing I would like to submit in this connection is in clause 1 it is stated that it shall come into force on such date as the State Government may by notification in the official gazette appoint. That means that the Government may take again some time, go in correspondence with the High Court and other district courts and try to get more information and thus delay giving effect to it. It is our past experience which prompts me to say so. You know Sir that a file goes from one department to another department and sometimes the files also disappear.

So, it may take even years for fixing this particular date for the enforcement of this Act. The urgency is, that this Act must come into force immediately. My submission to the Hon'ble Minister in charge is, instead of having this power with the Government, it must come into force immediately.

The second amendment is :

"In clause 2, sub-section (i) after sub-section (1) the following sub-section shall be and shall always be deemed to have been inserted....."

Sir, I am doubtful about the wording. At present, as there is no such clause in the original clause, some of the appeals and references or revisions pending before the District Judge have been disposed of by the District Courts, between the time the original Act came into force and to-day. So, "shall be and shall always be deemed to have been inserted" means, that this clause has been given the retrospective effect.

2-30 P.M.

Mr. SPEAKER.—Retrospective effect will relate to the pending cases and not disposed of cases.

Sri V. S. PATIL.—But, what is the wording? That means, this came into force with the Original Act. So, the appeals, revision that were pending when the Original Act came into force have already been decided by the District Courts, then, it will be a nullity according to this provision. This wording will again create difficulty in the interpretation of law. I suggest that the words 'shall always be deemed to have been inserted...' must be omitted. Otherwise, the poor client would be put to loss. Whatever we do, we must do for the future.

Then, in (ee) it says :

'appeals and proceedings connected therewith pending before a District Court from the decrees and orders passed by a Civil Judge (Junior Division) other than a Joint Civil Judge (Junior Division) appointed or deputed to assist in the Court of a Civil Judge (Senior Division) under section 23 of the Bombay Civil Courts Act, 1869, shall, on the date of commencement of the Mysore Civil Courts (amendment) Act, 1965 stand transferred, etc.....'

Here, if this Junior Division Civil Judge, even though he was a Joint Civil Judge appointed to clear the work pending in the court of the Senior Division, still, those appeals will not be affected at all. This will create some confusion. So, the jurisdiction of a Civil Judge (Junior Division) is restricted to 10,000 rupees. So, whatever decision he has given within his pecuniary jurisdiction, all these appeals must lie to the District Court, whether he has acted as Joint Judge or independently of the Senior Division court. Sir, in our part, where this Senior Division courts were there, the Junior Division courts were treated as Joint Junior Judges. Especially, in the district places, there is one Civil Court of Senior Division and in that very place there are courts of Junior Division Civil Judges. But, these Junior Division Civil Judges were treated as Joint Civil Judges. So, this will again create some trouble about interpretation. I submit that the Hon'ble Minister in charge will think more seriously of this particular wording. If it is proper, I have nothing to say. But, I feel some doubt. The words 'other than the Joint Civil Judge' may be omitted so as to make it clear.

† Sri G. V. GOWDA (Palyam).—Mr. Speaker, Sir, the amendment is very simple and it is to be accepted because of the fact that there seems to be consistency in respect of appeals or orders or decrees from the Munsiff Court and the Civil Judge (Junior Division). Sir, in Mysore Civil Courts' Act that was adopted in this House, all categories of courts have been brought to the category of District Court and the Civil Judges Court and the Munsiffs Court. Sir, what is to happen for the appeals

(SRI G. V. GOWDA)

that are preferred against the orders and decrees of these Munsiff court and District Munsiffs Court has been mentioned in the Act. I do not understand as to why this simple thing was not incorporated that is, what should happen to appeals preferred from decrees or orders of the Junior Civil Judge courts pending in the District Court. Sir, it is said that because representations have been received, we are bringing the amendments. Supposing, there were no representations; is it not an essential thing that uniformity should be kept up? After the appointed day all the appeals or the decrees or orders of these Joint Civil Judges should be heard by Civil Judge. Before the appointed day, the appeals pending in these courts must be heard by the District Court means, there would not be any uniformity and legality would go. Therefore, I am questioning the lack of foresightedness when the original Act was adopted. Should they not consider at that time that proper provision should be made in the Act itself? That being the case, made them not consider that aspect and make proper provision in the Act itself? If representations had not been received, Government would not have been apprised of this fact. The question is, what has happened to the pending appeals since the Act came into force? Have they been disposed of by the District Judges or are they still pending because no proper provision has been made under this Act. I would like to know whether any appeal has been disposed of up to this time by the District Judge. Why should have Government waited for these representations to make this amendment? Even otherwise, they should have brought an amendment to see that the Act is uniform throughout the State. The Government cannot take shelter saying that representations have been received and that is why they have brought this amendment.

† Sri M. V. RAMA RAO.—Sir, I am surprised that the Hon'ble Member Sri G. V. Gowd thought it fit to use the expression 'Government should not take shelter' under the phrase 'representations have been received'. There is nothing in respect of which Government seeks to take shelter behind any phrase. The Hon'ble Member will do well to reflect that the Mysore Civil Courts Act has been passed by this House and it was open to the Hon'ble Member, if he had looked into it, to have brought this omission as he has now noticed it.

Sri G. V. GOWDA.—We were not in touch with these terms in the Bombay Karnatak Area.

Sri M. V. RAMA RAO.—I do not know whether he was representing any particular territorial interest in regard to the civil jurisdiction of the courts. Apart from that, this is what I would like to say in reply to the observations which have been made by the two Hon'ble Members.

Sri V. S. Patil pointed out that the amending Bill should take effect from the date on which it is published in the Gazette after having been passed into law and after having received the assent of the Governor.

Now, that would not be a wise thing to do as I shall be able to tell him presently. The reason is that the appeals which are already pending before the District Judge's Court ought not to be allowed to suffer any disability being imposed on their hearing at the hands of one or the other court and it is for that purpose that it would be necessary that the date on which this Amending Act would come into force should be fixed prospectively after assuring ourselves that no such dislocating effect will be caused by the Act coming into force on a particular date.

The other matter to which the Hon'ble Member referred was that the expression 'the following sub-section shall be and shall always be deemed to have been inserted, ought not to be there. This is a very well understood expression and I am sure the Hon'ble Member should have noticed that such a phrase is increasingly used in the amending Bills which are passed by the Legislature in respect of different Acts.

Regarding the clause in which a reference to Civil Judge's Courts is contained, in order to make the position clear that such reference to Civil Courts in those instruments shall be construed as reference to the courts deemed to have been established under the new Act, this reference would be necessary. For example, in the Bangalore Urban and Rural Districts, new Civil Judges Courts have been established. In the Dharwar District, new Munsiff Courts have been established and there would be no reference found to these courts in the notification issued but those courts would have to exercise the powers of the old Civil Court and therefore such a reference would be found necessary. Therefore, provision has been made for this purpose.

A question was asked as to what has happened to the decrees was passed by the Civil judges Junior Division who are joint in the Court of the Civil Judge Senior Division in the Bombay Area and whether such appeal which had been previously filed and are pending before the District Judges Court in the Bombay Area have been heard and disposed of by the District Judges or whether anything else has been done with them. I wish to point out to the Hon'ble Members that this particular system of having what are known as joint judges is peculiar to the Bombay Area and would not be found in any other part of the Mysore State. It may well happen that a Civil Judge (Junior Division) may be presiding over the Court of a Civil Judge (Junior Division) and still there may be another Junior Civil Judge who may be designated Joint Civil Judge (Junior Division) who will be joint with another Junior Civil Judge but in many other cases it happens the other way. The Court is that of a Civil Judge (Senior Division) and the Civil Judge (Junior Division) is joint with him. But in such cases, Mr. Patil would readily appreciate that the judgment and decree that may be passed by the Joint Civil Judge (Junior Division) who is joint with the Senior Civil Judge in that court would nevertheless be the judgment and decree passed by the Civil Judge (Senior Division) within the meaning of the Civil Procedure Code. Therefore, it may well be that an anomalous position might arise if appeals from decrees and judgments of the joint

(SRI M. V. RAMA RAO)

Civil Judge (Junior Division) who is joint with Civil Judge (Senior Division) were to be preferred as they have been, in fact, preferred up to now to the court of the District Judge. Appeals have been in fact preferred to the District Judge and they are pending there. My information is that many of the appeals have been heard and are being heard. In regard to the point of jurisdiction, it cannot be said that the District Judges Court would lack jurisdiction in that sense. Actually, the arrangement which proposes to invest appellate jurisdiction in respect of civil matters of the value of Rs. 10,000 from the decrees of Munsiffs Courts is with a view to enable the civil appellate work being reduced on the file of the District Judges Court. by transferring such appellate work of the value up to Rs. 10,000 from the file of the District Judge's court to the file of the Civil Judge himself. It would not be that if the District Judge heard such an appeal the value of the subject matter of which was Rs. 10,000 or less, the District Judge was exercising jurisdiction which he did not possess. Mr. Patil will readily appreciate that. With a view to securing re-distribution of work as between the Civil Judge's court (Senior Division) as they used to call it in the Bombay area, and the District Judge's court this provision is now necessary.

With these observations I commend this amending Bill for the acceptance of the House.

Mr. SPEAKER.—The question is :

“ That the Mysore Civil Courts (Amendment) Bill, 1965, be taken into consideration.”

The motion was adopted.

Mr. SPEAKER.—The question is :

“ That clause 2 stand part of the Bill.”

The motion was adopted.

Clause 2 was added to the Bill.

Mr. SPEAKER.—The question is :

“ That clause 1, the Title and the Preamble stand part of the Bill.”

The motion was adopted.

Clause 1, the Title and the Preamble were added to the Bill.

Motion to pass.

SRI M. V. RAMA RAO.—I beg to move :

“ That the Mysore Civil Courts (Amendment) Bill, 1965, be passed.”

Mr. SPEAKER.—The question is :

“ That the Mysore Civil Courts (Amendment) Bill, 1965, be passed.”

The motion was adopted.